



General Assembly

January Session, 2005

Amendment

LCO No. 7300

SB0035807300SD0

Offered by:

SEN. LEBEAU, 3rd Dist.

To: Subst. Senate Bill No. 358

File No. 477

Cal. No. 362

***"AN ACT CONCERNING THE RETENTION OF JOBS IN
CONNECTICUT."***

1 Strike everything after the enacting clause and substitute the
2 following in lieu thereof:

3 "Section 1. (*Effective October 1, 2005*) The Governor shall review all
4 state contracts in effect on October 1, 2005, and identify any state
5 contracts under which services are being provided outside the United
6 States. Not later than March 1, 2006, the Governor shall submit a report
7 to the joint standing committees of the General Assembly having
8 cognizance of matters relating to economic development and
9 government administration, in accordance with the provisions of
10 section 11-4a of the general statutes. Said report shall list the contracts
11 under which state funds are being paid for services performed outside
12 the United States.

13 Sec. 2. (NEW) (*Effective October 1, 2005*) (a) Each request for
14 proposals issued by a state agency for a contract for the performance of
15 services (1) shall require that each proposer submitting a proposal

16 pursuant to such request disclose the location or locations where the
17 services under the contract and any subcontract under the contract
18 would be performed and whether any such services would be
19 performed outside the United States, and (2) may include criteria for
20 the awarding of the contract that consider the economic impact to
21 Connecticut and residents of the state of the location or locations
22 where services under the contract would be performed and, all other
23 factors in awarding the contract being equal, give a higher rating for
24 services performed in the United States.

25 (b) If a state agency awards a contract for the performance of
26 services to a proposer based on criteria that the services under the
27 contract and any subcontract be performed in the United States, such
28 contract shall (1) require the contractor to notify the state agency if
29 such contractor or any subcontractor subsequently performs any of the
30 services under the contract outside the United States, and (2) establish
31 remedies, which may include liquidated damages, if the contractor
32 wilfully or intentionally fails to notify the state agency in the event
33 such contractor or any subcontractor subsequently performs any of the
34 services under the contract outside the United States and the
35 performance of such services in the United States was a material
36 obligation of the contract.

37 Sec. 3. (NEW) (*Effective October 1, 2005*) (a) As used in this section:

38 (1) "State agency" means a department, division, board, commission
39 or other office in the executive branch of the state government or a
40 quasi-public agency, as defined in section 1-120 of the general statutes;
41 and

42 (2) "Privatization contract" means an agreement between a state
43 agency and a nongovernmental person or entity, in which said person
44 or entity agrees to provide services having a cost of one hundred
45 thousand dollars or more over the term of the contract that are
46 substantially similar to and in lieu of services provided, in whole or
47 part, by employees of such state agency or by employees of another

48 state agency for such state agency. The term "privatization contract"
49 does not include an agreement to provide legal services, litigation
50 support, investment management services or management consulting
51 only.

52 (b) Notwithstanding any provision of the general statutes, each
53 privatization contract to which a state agency is a party shall (1)
54 require the contractor to agree and warrant that in the performance of
55 the contract such contractor shall make reasonable efforts to originate
56 or provide such services at a location or locations in the United States,
57 and (2) establish remedies, which may include liquidated damages, if
58 the contractor fails to make reasonable efforts to originate or provide
59 such services at a location or locations in the United States. If the
60 contractor breaches the contract by failing to make reasonable efforts
61 to originate or provide such services at a location or locations in the
62 United States, the state agency may seek enforcement of such
63 remedies.

64 Sec. 4. Subsection (c) of section 4a-59 of the general statutes is
65 repealed and the following is substituted in lieu thereof (*Effective*
66 *October 1, 2005*):

67 (c) All open market orders or contracts shall be awarded to (1) the
68 lowest responsible qualified bidder, the qualities of the articles to be
69 supplied, their conformity with the specifications, their suitability to
70 the requirements of the state government and the delivery terms being
71 taken into consideration and, at the discretion of the Commissioner of
72 Administrative Services, life-cycle costs and trade-in or resale value of
73 the articles may be considered where it appears to be in the best
74 interest of the state, (2) the highest scoring bidder in a multiple criteria
75 bid, in accordance with the criteria set forth in the bid solicitation for
76 the contract, or (3) the proposer whose proposal is deemed by the
77 awarding authority to be the most advantageous to the state, in
78 accordance with the criteria set forth in the request for proposals,
79 including price and evaluation factors. Notwithstanding any provision
80 of the general statutes to the contrary, each state agency awarding a

81 contract through competitive negotiation shall include price as an
82 explicit factor in the criteria in the request for proposals and for the
83 contract award. In considering past performance of a bidder for the
84 purpose of determining the "lowest responsible qualified bidder" or
85 the "highest scoring bidder in a multiple criteria bid", the
86 commissioner shall evaluate the skill, ability and integrity of the
87 bidder in terms of the bidder's fulfillment of past contract obligations
88 and the bidder's experience or lack of experience in delivering
89 supplies, materials, equipment or contractual services of the size or
90 amount for which bids have been solicited. In determining the lowest
91 responsible qualified bidder for the purposes of this section, the
92 commissioner may give a price preference of up to ten per cent for (A)
93 the purchase of goods made with recycled materials or the purchase of
94 recyclable or remanufactured products if the commissioner determines
95 that such preference would promote recycling or remanufacturing. As
96 used in this subsection, "recyclable" means able to be collected,
97 separated or otherwise recovered from the solid waste stream for
98 reuse, or for use in the manufacture or assembly of another package or
99 product, by means of a recycling program which is reasonably
100 available to at least seventy-five per cent of the state's population,
101 "remanufactured" means restored to its original function and thereby
102 diverted from the solid waste stream by retaining the bulk of
103 components that have been used at least once and by replacing
104 consumable components and "remanufacturing" means any process by
105 which a product is remanufactured; (B) the purchase of motor vehicles
106 powered by a clean alternative fuel; or (C) the purchase of motor
107 vehicles powered by fuel other than a clean alternative fuel and
108 conversion equipment to convert such motor vehicles allowing the
109 vehicles to be powered by either the exclusive use of clean alternative
110 fuel or dual use of a clean alternative fuel and a fuel other than a clean
111 alternative fuel. As used in this subsection, "clean alternative fuel" shall
112 mean natural gas or electricity when used as a motor vehicle fuel. All
113 other factors being equal, (i) preference shall be given to supplies,
114 materials and equipment produced, assembled or manufactured in the
115 state and services originating and provided in the state, and (ii) if no

116 bidder or proposer would produce, assemble or manufacture supplies,
117 materials and equipment in the state or originate and provide services
118 in the state, preference shall be given to supplies, materials and
119 equipment produced, assembled or manufactured in the United States
120 and services originating and provided in the United States. If any such
121 bidder refuses to accept, within ten days, a contract awarded to such
122 bidder, such contract may be awarded to the next lowest responsible
123 qualified bidder or the next highest scoring bidder in a multiple
124 criteria bid, whichever is applicable, and so on until such contract is
125 awarded and accepted. If any such proposer refuses to accept, within
126 ten days, a contract awarded to such proposer, such contract shall be
127 awarded to the next most advantageous proposer, and so on until the
128 contract is awarded and accepted. There shall be a written evaluation
129 made of each bid. This evaluation shall identify the vendors and their
130 respective costs and prices, document the reason why any vendor is
131 deemed to be nonresponsive and recommend a vendor for award. A
132 contract valued at one million dollars or more shall be awarded to a
133 bidder other than the lowest responsible qualified bidder or the
134 highest scoring bidder in a multiple criteria bid, whichever is
135 applicable, only with written approval signed by the Commissioner of
136 Administrative Services and by the Comptroller. The commissioner
137 shall submit to the joint standing committee of the General Assembly
138 having cognizance of matters relating to government administration,
139 the State Auditors and the Comptroller, an annual report of all awards
140 made pursuant to the provisions of this section.

141 Sec. 5. (NEW) (*Effective October 1, 2005*) There is established within
142 the office of the Attorney General, within available appropriations, an
143 office that shall be responsible for assisting manufacturers and other
144 businesses based in the state in protecting their patents and businesses
145 from unfair and illegal competition from businesses based outside the
146 United States."

This act shall take effect as follows and shall amend the following sections:

Section 1	<i>October 1, 2005</i>	New section
Sec. 2	<i>October 1, 2005</i>	New section
Sec. 3	<i>October 1, 2005</i>	New section
Sec. 4	<i>October 1, 2005</i>	4a-59(c)
Sec. 5	<i>October 1, 2005</i>	New section